

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

C.A. NO. 04-CV-11193-NG

SEAN DRUMGOLD,)
)
Plaintiff)
)
vs.)
)
CITY OF BOSTON, ET AL.,)
)
Defendants)
)

DEFENDANTS' MOTION FOR CONTINUATION OF DISCOVERY
DEADLINES

The parties in this matter are in the process of concluding depositions of fact witnesses. The Court issued a ruling on May 2, 2007, partially allowing Defendants' motion to compel the attendance of witnesses at deposition, and thereafter Defendants subpoenaed those witnesses to appear. At present, the depositions of two fact witnesses have been completed (Vantrell McPherson and Michelle Payne Short); others have been noticed but have asked for scheduling accommodations (Olisa Graham, Edrina Graham). Efforts are being made to depose another witness (Kathy Jameson) who has thus far refused to appear. One witness (Terrence Taylor) is in federal custody in West Virginia and, although first indications were that he would appear at deposition, he has since refused to accept the deposition subpoena, indicating that he intends to confer with counsel. Defendants are attempting to learn the identity of that counsel.

Three witnesses have not been located: Eric Johnson, Antonio Anthony (both of whom testified at the motion for new trial that led to Drumgold's release) and Obie

Graham. Mr. Graham was released on bail from the Middlesex Superior Court and has disappeared. Efforts are underway to locate all three witnesses.

Finally, counsel are attempting to schedule the depositions of two other fact witnesses, both practicing attorneys (David Meier and Edward McNelly). These witnesses have yet to provide dates of availability.

Scheduling the depositions in this case has admittedly been a challenge due to the number of attorneys involved and the conflicting schedules of each (please see the scheduling for May in the attached Affidavit of Counsel). Fact discovery is currently set to close on May 31, 2007.

Due to the foregoing, counsel respectfully request that the Court allow an extension of the fact discovery deadline, to August 31, 2007. The undersigned requests this extension so that the remaining depositions may be concluded without the need for further extension requests, and so that if necessary, counsel may seek relief from Court compelling the arrest of non-appearing deponents. Undersigned counsel is also mindful that arranging for the deposition of Mr. Taylor is likely to be complicated by his prisoner status and the difficulties involved in arranging the appearance of all counsel at the U.S. Penitentiary in West Virginia. Finally, it is anticipated that the summer months will bring additional scheduling difficulties based on child care and vacation schedules of all involved. The deposition schedule for the month of May is attached in counsel's affidavit, and demonstrates that all counsel have been committed to finishing the outstanding discovery in a way that is also respectful of the other personal and professional obligations of each attorney.

For the foregoing reasons, counsel respectfully request that the Court allow this motion for a continuation of fact discovery.

Respectfully submitted,

TIMOTHY CALLAHAN

RICHARD WALSH,

By his attorney,

By his attorney,

____/s/ Mary Jo Harris _____
Mary Jo Harris, BBO # 561484
Morgan, Brown & Joy, LLP
200 State Street
Boston, MA 02109
(617) 523-6666

____/s/ Hugh R. Curran _____
Hugh R. Curran, BBO # 402057
Bonner Kiernan Trebach & Crociata
One Liberty Square
Boston, MA 02109
(617) 426-3900

THE CITY OF BOSTON

PAUL MURPHY

____/s/ John Roache _____
Roache & Malone
66 Long Wharf
Boston, MA 02110

____/s/ William M. White _____
Davis, Robinson & White
One Faneuil Hall Marketplace
Boston, MA 02109

Dated: May 29, 2007

CERTIFICATE OF SERVICE

I hereby certify that on May 29, 2007 I served a copy of Defendants' Motion to Compel upon the following counsel of record by filing with the ECF/Pacer Case Management System and by sending a courtesy copy, first class mail, postage prepaid:

Rosemary Curran Scappiccio
Four Longfellow Place, Ste. 3703
Boston, MA 02114

Michael W. Reilly
Tommasino & Tommasino
Two Center Plaza
Boston, MA 02108

/s/ Mary Jo Harris
Mary Jo Harris